

N.D.A.G. Letter to Tomac (July 30, 1986)

July 30, 1986

Mr. Steven W. Tomac
Chairman
Credit Review Board State Capitol
State Capitol
Bismarck, ND 58505

Dear Mr. Tomac:

This letter is in response to a request from the Credit Review Board's Administrative Assistant, Jet Collins, concerning the use of moneys in the Home-Quarter Purchase Fund to pay for administrative expenses of the Credit Review Board.

In an opinion letter to Steve W. Tomac, Chairman, Credit Review Board, dated August 5, 1985, I concluded that the Credit Review Board has the authority to use interest moneys from the Home-Quarter Purchase Fund for administrative and other expenses associated with the loan-making process of providing interest subsidies. The letter noted that section 3 of House Bill No. 1494 (N.D.C.C. § 6-09.10-02) states, in part, as follows:

The expenses provided under this section may be paid from any funds available in the home-quarter purchase fund.

The expenses anticipated by that section are reimbursement to Board members for daily official service on the Board, general reimbursement for Board member expenses as provided in N.D.C.C. §§ 44-08-04 and 54-06-09, and the expenses of hiring staff to serve as negotiators in place of the Board.

The letter goes on to outline the process of assisting farmers pursuant to N.D.C.C. Ch. 6-09.10. It then concludes that administrative expenses or costs incurred are inextricably a part of the process and are, therefore, part of providing interest buy-downs or subsidies of interest rates. Finally, it indicates the intent of House Bill No. 1494 (N.D.C.C. Ch. 6-09.10) includes the payment of administrative and other expenses for the actual loan-making process of providing interest rate subsidies and could also include expenses in the application and negotiation process since those steps are a necessary prerequisite to the loan-making process.

Indeed, if the \$50,000 appropriated for administrative expenses has been exhausted, and the Board has expended all of the interest moneys from the Home-Quarter Purchase Fund for administrative and other expenses associated with the loan making process of providing interest subsidies, it is my opinion that the Board can then use the actual Fund moneys for any necessary administrative expenses involved in the process of providing interest buy-downs or subsidies of interest rates to farmers. Administrative expenses

would include administrative expenses or costs for the actual loanmaking process of providing interest rate subsidies and buy-downs, administrative expenses in the application process, and administrative expenses of providing negotiators and entering into negotiations for the Board.

If the Fund moneys appropriated could not be used as indicated, the situation, as was noted in the previous letter, could be a "Catch-22." The Board could find itself in position of having no financial means available to initiate and complete the required negotiation process while still having money available to actually make loans for subsidies or buy-downs.

Furthermore, N.D.C.C. § 6-09.10-06(2) states as follows:

The board may petition the emergency commission for a transfer from the state contingency fund whenever it appears to the board that the moneys remaining in the fund are not sufficient to meet demands on the fund. The emergency commission may grant the transfer request, or so much thereof as may be necessary, if it finds that an emergency situation exists in the industry of farming, due to increasing numbers of farm foreclosures.

If the amount specifically appropriated for administrative expenses (\$50,000) and the interest moneys on the fund itself have been expended, I believe the Board should petition the Emergency Commission requesting additional moneys to administer the Fund, emphasizing the need for the negotiation process, thereby making an effort to protect the integrity of the Fund as being a Fund available for loan moneys to farmers for interest rate subsidies or buy-downs. If the Emergency Commission turns down a request for additional administrative moneys, I would then recommend expending Fund moneys for administrative expenses.

Sincerely,

Nicholas J. Spaeth

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